

EXHIBIT C

Plaintiffs' First Set of Requests for Production of Documents to Defendants Cendyn Group, LLC and the Rainmaker Group Unlimited, Inc.

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD GIBSON, and HERIBERTO
VALIENTE,

Plaintiffs,

v.

MGM RESORTS INTERNATIONAL,
CENDYN GROUP, LLC, THE RAINMAKER
GROUP UNLIMITED, INC., CAESARS
ENTERTAINMENT INC., TREASURE
ISLAND, LLC, WYNN RESORTS
HOLDINGS, LLC,

Defendants.

No. 2:23-CV-00140-MMD-DJA

**PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANTS
CENDYN GROUP, LLC AND THE
RAINMAKER GROUP UNLIMITED,
INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs Richard Gibson and Heriberto Valiente (collectively, “Plaintiffs”) hereby request that Defendants Cendyn Group, LLC and The Rainmaker Group Unlimited, Inc. (collectively, “Rainmaker”) produce the documents herein requested within 30 days at the offices of Panish Shea Boyle Ravipudi LLP, 300 S. 4th Street, Suite 710, Las Vegas, NV 89101, or such other time and place as may be agreed upon by counsel. Pursuant to Federal Rule of Civil Procedure 34(b), unless otherwise specified, all documents must be organized and labeled to correspond to the categories in the associated document request. Corrections and supplemental answers and production of documents are required as provided for in the Federal Rules of Civil Procedure.

DEFINITIONS

The following definitions shall apply to these document requests:

1. “And” and “or” are to be read interchangeably so as to give the broadest possible meaning to a particular request in which either or both is used.

2. “Communication” or “Communicated” means, without limitation, any exchange of thoughts, messages, or information, as by speech, signals, writing, or behavior, including but not limited to, any advice, advisement, announcement, articulation, assertion, contact, conversation, written or electronic correspondence, declaration, discussion, dissemination, elucidation, expression, interchange, memoranda, notes, publication, reception, revelation, talk, transfer, transmission, or utterance. The phrase “communication between” is defined to include instances where one party addresses the other party but the other party does not necessarily respond.

3. “Competitive Conditions” means costs, pricing, production/output, capacity, sales, demand, supply, or market shares for Hotel rooms.

4. “Defendant” means any company, organization, entity or person presently or subsequently named as a Defendant in this litigation including its predecessors, wholly owned or controlled subsidiaries or affiliates, successors, parents, owners, other subsidiaries, departments, divisions, joint ventures, other affiliates and any organization or entity managed or controlled by

a named Defendant, including those merged with or acquired, together with all present and former directors, officers, Employees, agents, attorneys, representatives or any persons acting or purporting to act on behalf of a Defendant.

5. “Document” shall have the same meaning as used in Rule 34 of the Federal Rules of Civil Procedure, and includes, without limitation, the original and all non-identical copies of all writings, including, without limitation, handwritten, typed, printed or electronically stored electronic material. Each and every draft of a Document is a separate Document for purposes of these document requests.

6. “Document Custodian” refers to Your Employees and/or representatives who the parties agree, or the Court orders, must have Documents in Your, the Employee’s, and/or Representative’s possession, custody, or control collected and produced in this matter.

7. “Electronically stored information” or “ESI” means and refers to computer generated information or data of any kind, stored in or on any storage media located on computers, file servers, disks, the cloud, tape, or other real or virtualized devices or media. Non-limiting examples of ESI include:

- a. Digital communications (e.g., email, phone calls and logs of phone calls, voice mail, text messaging, instant messaging, and ephemeral messaging (SnapChat, Confide, Signal, etc.));
- b. Email Server Stores (e.g., Lotus Domino. NSF or Microsoft Exchange .EDB);
- c. Word processed documents (e.g., MS Word or WordPerfect files and drafts);
- d. Spreadsheets and tables (e.g., Excel or Lotus 123 worksheets);
- e. Accounting Application Data (e.g., QuickBooks, Money, Peachtree data);
- f. Image and Facsimile Files (e.g., .PDF, .TIFF, .JPG, .GIF images);
- g. Sound Recordings (e.g., .WAV and .MP3 files);
- h. Video and Animation (e.g., .AVI and .MOV files);
- i. Unstructured Data;
- j. Structured Databases (e.g., Access, Oracle, SQL Server data, SAP);
- k. Contact and Relationship Management Data (e.g., Outlook, ACT!);

- l. Calendar and Diary Application Data (e.g., Outlook PST, blog entries);
- m. Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- n. Presentations (e.g., PowerPoint, Corel Presentations);
- o. Network Access and Server Activity Logs;
- p. Project Management Application Data;
- q. Backup and Archival Files (e.g., Veritas, Zip, .GHO, iTunes archives of iPhone content); and
- r. Cloud based or other virtualized ESI, including application, infrastructure and data.

8. “Employee” means, without limitation, , any current or former owner, representative, officer, director, executive, manager, employee, secretary, staff member, messenger, agent or other person who is or was employed by You and any controlled subsidiaries, or any person or purporting to act on Your behalf.

9. “Hotel” means an establishment located on or near the Las Vegas Strip Hotel Market that provides accommodations, casino services, and occasionally entertainment and other services.

10. “Hotel Operator” refers to any person or entity that manages or operates a hotel or casino property in the Las Vegas Strip Hotel Market as defined in the Class Action Complaint, which includes but is not limited to the named Defendants in the present action: MGM Resorts International, Caesars Entertainment, Inc., Treasure Island, LLC, and Wynn Resorts Holdings, LLC.

11. “Hotel Supply Factors” refers to the ways in which Defendants control the supply of hotel rooms, including capacity reductions, controlling occupancy rates, and limiting promotions in the Las Vegas Strip Hotel Market.

12. “Including” is used to emphasize certain types of Documents requested and should not be construed as limiting the request in any way. Including therefore means “including, but not limited to,” or “including without limitation.”

13. “Industry Analyst” means a Person, other than an Employee of a Defendant, a

Defendant's parent, a Defendant's subsidiary, or another Hotel Operator, who analyzes Hotel Operators for the purpose or with the effect of advising clients on investment in Hotel Operators.

14. "Industry Meeting" means a meeting for companies in the Las Vegas Strip Hotel industry and at which the industry is discussed, organized or hosted by an entity other than a named Defendant, a Defendant's parent, a Defendant's subsidiary, and attended by two or more Hotel Operators, including at least one named Defendant.

15. "Las Vegas Strip Hotel Market" is the relevant geographic and product market alleged in this case, comprising Hotel room rentals in the Las Vegas Strip and surrounding areas in Las Vegas, Nevada. *See Gibson et al. v. MGM Resorts Int'l et al.*, No. 2:23-cv-00140-MD-DJA, Dkt. 1. "Management" means a Defendant's (a) Board of Directors, (b) officers, (c) CEO, CFO, COO, or President, and (d) senior executives.

16. "Meeting" means, without limitation, any assembly, convocation, encounter, communication or contemporaneous presence (whether in person or via any electronic, computer-assisted, digital, analog, video, or telephonic method of communication) of two or more persons for any purpose, whether planned or arranged, scheduled or not.

17. "Named Plaintiffs" means those individuals or entities listed as plaintiffs in the Complaint, and any entities subsequently added as named plaintiffs in this matter.

18. "Operator Defendants" refers to Defendants MGM Resorts International; Caesars Entertainment Inc.; Treasure Island, LLC; and Wynn Resorts Holdings, LLC.

19. "Owner" refers to any entity or person who owns 1% or more of You and/or Your wholly-owned or controlled subsidiaries or affiliates or from whom You collectively borrowed or received funds totaling in excess of \$10 million from January 1, 2009 through the present.

20. "Person" means, without limitation, any individual, corporation, partnership or any variation thereof (e.g., limited partnership, limited liability partnership), limited liability company, proprietorship, joint venture, association, group or other form of legal entity or business existing under the laws of the United States, any state, or any foreign country.

21. "Policy" or "Procedure" means any rule, practice or course of conduct, guidelines

1 or business methods or traditions whether formal or informal, written or unwritten, recorded or
2 unrecorded, which was recognized or followed, explicitly or implicitly, by You.

3 22. “Pricing Algorithm” refers to any profit optimization software, platforms,
4 systems, or processes, You access, use, or distribute, that inputs data and information and
5 compares, forecasts, recommends, or summarizes pricing for clients in the Las Vegas Strip Hotel
6 Market, including but not limited to Rainmaker’s GuestRev, Revcaster, GroupRev, and RevIntel
7 services.

8 23. “Rainmaker” refers to Defendants Cendyn Group, LLC and The Rainmaker
9 Group Unlimited, Inc., or any other related entity providing Pricing Algorithm services for the
10 Hotel industry.

11 24. “Relating to,” “referring to,” “regarding,” “with respect to” or “concerning” mean
12 without limitation the following concepts: concerning, constituting, discussing, describing,
13 reflecting, dealing with, pertaining to, analyzing, evaluating, estimating, constituting, studying,
14 surveying, projecting, assessing, recording, summarizing, criticizing, reporting, commenting, or
15 otherwise involving, in whole or in part, directly or indirectly. Documents are considered relating
16 to the subject matter whether they are viewed alone or in combination with other Documents.

17 25. “Structured Data” or “Structured Database” refers to data stored in a fixed field
18 within a database or other structured record or file according to specific form and content rules as
19 defined by each field.

20 26. “You,” “Your” or “Your company” mean the responding Defendant, including its
21 predecessors, wholly owned or controlled subsidiaries or affiliates, successors, parents, other
22 subsidiaries, departments, divisions, joint ventures, other affiliates and any organization or entity
23 that the responding Defendant manages or controls, including those merged with or acquired,
24 together with all present and former directors, officers, employees, agents, attorneys,
25 representatives or any persons acting or purporting to act on their behalf.

DOCUMENT REQUESTS

The “Relevant Time Period” for these requests is January 1, 2014 through the present, unless otherwise noted.

REQUEST NO. 1: Documents sufficient to show Your organizational structure of Employees (including names, titles, and reporting relationships) throughout the Relevant Time Period, including but not limited to any constitution, formation or organizational documents, articles of incorporation, business licenses, or organizational charts.

REQUEST NO. 2: Documents sufficient to identify each Hotel located on or around the Las Vegas Strip Hotel Market that signed up for, contributed to, or used Rainmaker’s Pricing Algorithms.

REQUEST NO. 3: Documents sufficient to show, for each participating Hotel, the conditions, duration, and terms of participation in Rainmaker.

REQUEST NO. 4: Documents sufficient to show the date, time, attendees, agenda, and minutes of each meeting You held with Hotel Operators regarding Rainmaker’s Pricing Algorithms.

REQUEST NO. 5: Documents sufficient to show the terms of the acquisition agreement reached between Cendyn Group, LLC and The Rainmaker Group Unlimited, Inc., announced by Cendyn Group LLC in August 2019,¹ including which assets and liabilities of The Rainmaker Group Unlimited, Inc., were transferred to or assumed by the Cendyn Group, LLC and which remain with The Rainmaker Group Unlimited, Inc. or were transferred to or assumed by any other entity.

REQUEST NO. 6: All Documents Relating to Your contracts or other agreements with Hotel Operators, including Documents relating to confidentiality, payment terms, categories of information submitted by each Hotel Operator, and any limitations on Your use or distribution of data submitted to You by a Hotel Operator.

¹ See, e.g., <https://www.prnewswire.com/news-releases/cendyn-announces-acquisition-of-the-rainmaker-group-300894809.html>

REQUEST NO. 7: All Documents relating to financial compensation You received from any Hotel Operator for Your services.

REQUEST NO. 8: Structured Data from January 1, 2009 through the present that You (1) received from any Hotel Operator relating to the Las Vegas Strip Hotel Market, including prices, number of rooms, room types, revenue per available room, average daily rate, occupancy, events, data gathered on high-end guests, demand, supply; and (2) derived from that data.

REQUEST NO. 9: All Structured Data from January 1, 2009 through the present that You collected and maintained that were related to Hotels and the Hotel industry in the Las Vegas Strip Hotel Market.

REQUEST NO. 10: All custom excerpts of Structured Data from January 1, 2009 through the present that have been requested by or provided to any Defendant Hotel Operator regarding Hotels in the Las Vegas Strip Hotel Market.

REQUEST NO. 11: All Documents related to each Hotel Operator's use and/or acceptance of Rainmaker pricing recommendations, including but not limited to tracking documents.

REQUEST NO. 12: All Documents from January 1, 2009 through the present showing Your methodology for surveying, collecting, monitoring, auditing and calculating data reflected in reports or dashboards provided to Hotel Operators, including what steps You take to anonymize the identity of participants' data in Your reports.

REQUEST NO. 13: All Communications between You and any Hotel Operator regarding the business operation of Hotels, including the rental of rooms.

REQUEST NO. 14: All Documents relating to all data, reports, or services provided by You to any Hotel Operator.

REQUEST NO. 15: All Documents relating to Your decision to start, modify, or stop offering particular data, reports, or services, including specific metrics, related to Hotels.

REQUEST NO. 16: All Documents relating to Pricing Algorithms or other methodologies that You use to make pricing and other recommendations to Hotel Operators.

1 **REQUEST NO. 17:** All Documents relating to Your formulation, creation, refinement,
2 or adjustment of Pricing Algorithms or methodologies that You use to make pricing and other
3 recommendations to Hotel Operators.

4 **REQUEST NO. 18:** Documents sufficient to show formulation and implementation of
5 Your GuestRev Pricing Algorithm.

6 **REQUEST NO. 19:** Documents sufficient to show formulation and implementation of
7 Your GroupRev Pricing Algorithm.

8 **REQUEST NO. 20:** Documents sufficient to show formulation and implementation of
9 Your RevCaster Pricing Algorithm.

10 **REQUEST NO. 21:** Documents sufficient to show formulation and implementation of
11 Your RevIntel Pricing Algorithm.

12 **REQUEST NO. 22:** Documents sufficient to show formulation and implementation of
13 OTA Insight.

14 **REQUEST NO. 23:** All Documents related to the selection of inputs to Your GuestRev
15 Pricing Algorithm.

16 **REQUEST NO. 24:** All Documents related to the selection of inputs to Your GroupRev
17 Pricing Algorithm.

18 **REQUEST NO. 25:** All Documents related to the selection of inputs to Your RevCaster
19 Pricing Algorithm.

20 **REQUEST NO. 26:** All Documents related to the selection of inputs to Your RevIntel
21 Pricing Algorithm.

22 **REQUEST NO. 27:** All Documents related to the selection of inputs for OTA Insight.

23 **REQUEST NO. 28:** Any webcasts hosted by You involving Hotels, including a
24 complete copy of any written Documents circulated or shown to attendees, any recording or
25 transcript of such webcasts, and any record of attendees.

26 **REQUEST NO. 29:** All Communications and Documents relating to Your meeting(s)
27 with each Hotel Operator, including participant lists, dates and locations for meetings,

presentations (including speaker notes, where applicable), agendas, minutes, notes, attendance lists, expense reports, handouts, reports, statistical bulletins, and correspondence.

REQUEST NO. 30: All Documents relating to Competitive Conditions in the Hotel industry, including reports, presentations, industry publications, business plans, studies, analyses, or other Documents concerning forecasted, projected, estimated, planned or actual: (a) market shares; (b) consolidation, mergers, acquisitions, or joint ventures; (c) occupancy rates and other similar metrics; (d) fixed or variable costs; (e) pricing; (f) entry or exit conditions; (g) data, publications, or other sources used in the regular course of business by You to monitor demand in the United States; (h) substitute products; (i) Hotel Supply Factors; or (j) other industry statistics.

REQUEST NO. 31: All Documents relating to Your decisions on how to structure reports or services and other materials provided to customers regarding Hotels, such as which Pricing Algorithm services were included and what metrics were used.

REQUEST NO. 32: Documents sufficient to show Your policies, procedures and practices, whether implemented, adopted, used or considered, concerning compliance with or violation of federal, state, or international antitrust laws, competition laws, anti-monopoly laws, anti-cartel laws, unfair competition laws, and any similar laws or regulations, and contacts and other Communications among competitors (including current and former versions of compliance policies and procedures, presentations, seminars, programs, memos, statements signed by Your members or Employees that acknowledge receipt of or compliance with such policies arising from or relating to any prior legal proceedings).

REQUEST NO. 33: All Documents concerning any internal investigation, government investigation, litigation, or other inquiry into possible or alleged violations of federal, state, or international antitrust laws, competition laws, anti-monopoly laws, anti-cartel laws, unfair competition laws, and any similar laws or regulations relating to your services provided to the Hotels industry.

REQUEST NO. 34: All Documents concerning pricing of Hotel rooms and other services, industry leadership, industry discipline, occupancy rates, occupancy discipline, supply discipline, or other so-called disciplined approaches or practices relating to your services provided to the Hotel industry.

REQUEST NO. 35: For each Document Custodian, all:

- a. electronic and hard copy diaries, calendars, appointment books, notebooks, to-do lists, Day Timers, day planners or appointment notes;
- b. trip and travel logs, expense and entertainment reports, and other supporting Documents;
- c. a copy of the Person's most recently created resume or curriculum vitae (CV);
- d. copies of any transcripts or recordings of prior testimony relating to Competitive Conditions in the market for Hotels, such as testimony at a deposition, trial, or public hearing;
- e. Documents sufficient to show the Document Custodian's complete contact information, including all phone numbers, social media user names or "handles," and email addresses used by such persons for any business purposes, even if only sparingly; and
- f. Any severance agreements in connection with the Document Custodian ceasing employment or changing employment status with You (without time limitation).

REQUEST NO. 36: All Documents relating to actual or potential substitutes for Hotel rooms.

REQUEST NO. 37: All Documents relating to the elasticity of supply, demand, or price of Hotel rooms.

REQUEST NO. 38: All Documents relating to the interchangeability of Hotel rooms sold by different Hotel Operators.

REQUEST NO. 39: All Documents concerning the identity of any actual or potential entrants into the Hotel market and any barriers, obstacles or difficulties facing the actual or potential entrants (including, but not limited to, capital cost, regulations, brand name recognition, other competitors, real estate, and location).

1 **REQUEST NO. 40:** All Documents concerning the effect of changes in occupancy, or
2 availability of Hotel rooms, on the price of Hotel rooms.

3 **REQUEST NO. 41:** All Documents relating to the anonymity, or lack thereof, of Hotel
4 Operators within any of Your Pricing Algorithm services through which Hotel Operators can
5 view competitors' prices and data, including documents concerning Your knowledge that the
6 identities of Hotel Operators could be determined.

7 **REQUEST NO. 42:** All Documents relating to Your disclosure of the identities of Hotel
8 Operators participating in Your Pricing Algorithms to other Hotel Operators.

9 **REQUEST NO. 43:** All Documents concerning any mention of data or information
10 concerning one or more Hotel Operators by name to a competing Hotel Operator, whether
11 intentional or accidental, and all steps taken to claw back or remediate the disclosure.

12 **REQUEST NO. 44:** All Documents concerning any Hotel Operator's request that
13 information be included or excluded in the reports, services, data repositories, dashboards that
14 You provide to Your customers.

15 **REQUEST NO. 45:** All Documents relating to any Hotel Operator's potential
16 participation in Rainmaker's Pricing Algorithms, including, but not limited to communications
17 regarding such participation with other Hotel Operators.

18 **REQUEST NO. 46:** All Documents relating to the communication of any Hotel
19 Operator's participation status in Rainmaker's Pricing Algorithms, including, but not limited to
20 communications regarding other Hotel Operators' participation status in Rainmaker's Pricing
21 Algorithms.

22 **REQUEST NO. 47:** All Documents concerning any request for permission to share the
23 name and/or participation status in Rainmaker's Pricing Algorithms of any current Rainmaker
24 Hotel Operator client with any prospective or another current Rainmaker Hotel Operator client.

1 DATED: May 8, 2023

Respectfully submitted,

2 HAGENS BERMAN SOBOL SHAPIRO LLP

3 /s/ Steve W. Berman

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Counsel for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2023, I caused the foregoing Plaintiffs' First Set of Requests for Production of Documents to Defendants Cendyn Group, LLC and The Rainmaker Group Unlimited, Inc. to be served upon counsel of record via electronic mail.

DATED: May 8, 2023

/s/ Steve W. Berman

Steve W. Berman